

FILED
11/18/22
CLERK
U.S. BANKRUPTCY
COURT - WDPA

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:) Bank. No. 22-20324 GLT
)
DAVID A. GOLUPSKI and) Chapter 11 (Subchapter V)
MAUREEN Y. GOLUPSKI)
Db a HG VENTURES, INC., dba) Related Dkt. No. 188
DIAMOND HEAD TRUCKING,)
)
)
)
Debtor.)
)
)
UNITED STATES OF AMERICA,)
)
) Related to
Movant,) Document Nos. 106, 126, 154
)
vs.)
)
) Hearing Date
)
DAVID A. GOLUPSKI and)
MAUREEN Y. GOLUPSKI)
Db a HG VENTURES, INC., dba)
DIAMOND HEAD TRUCKING,)
)
Respondents.)

STIPULATION AND AGREED ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between David A. Golupski and
Maureen Y. Golupski dba HG Ventures, Inc. dba Diamond Head Trucking, Debtors, as represented
by counsel, and the United States of America, as represented by Cindy K. Chung, United States
Attorney for the Western District of Pennsylvania, and Jill Locnikar, Assistant U.S. Attorney, as
follows:

1. The Internal Revenue Service (the “IRS”) holds a \$67,355.26 prepetition claim, consisting of a priority claim of \$66,302.12 and a general unsecured claim of \$1,053.14.

2. Debtors will pay the IRS priority claim, together with interest at the rate of 6 percent per year in 60 monthly installments of \$1,281.81. The first such installment shall be due on the first day of the month following the effective date of the plan, and the remaining installments shall be due on the first day of each month thereafter until the priority claim is paid in full with interest. The IRS priority claim contains estimates and has been amended to reflect the unassessed amended returns recently filed by Debtors. Once all returns have posted and have been processed, the IRS will further amend its claim if necessary. Debtors and the IRS will agree to an adjusted monthly payment, if necessary, after all returns are fully processed.

3. The IRS also has an administrative claim in the amount of \$45,100.00, which amount is estimated because Debtors did not make any estimated tax payments in 2022. Once Debtors file their 2022 return, Debtors will also be liable for any assessed penalties and interest, for which the IRS will notify Debtors if necessary. Debtors will pay the administrative claim together with interest at the rate of 6 percent per year in 60 monthly installments of \$871.91. The parties will adjust the monthly payment amount, if necessary, once the exact amount owed is determined. The total monthly payment to the IRS of the priority and administrative claims will be \$2,153.72.

4. The IRS will share pro rata with other general unsecured creditors in payment of its general unsecured claim.

5. To the extent that any federal tax liens attached to any property owned by Debtors as of the date of the filing of the petition in this case, such property shall remain subject to such federal tax liens until such time as the amount of such liens has been fully satisfied. In order to

protect its priority position against postconfirmation creditors, the IRS will file notices of federal tax lien following confirmation of the plan of reorganization for all unsecured priority periods for which there are liabilities.

6. Unless the IRS notifies Debtors otherwise, all payments required under this stipulation shall be made to the Internal Revenue Service, to the attention of the Chief, Insolvency Section, Internal Revenue Service, Room 711B Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

7. Any refunds or credits to which Debtors may become entitled at any time before the liabilities to be repaid pursuant to this stipulation are fully satisfied may be credited administratively against the outstanding balance. In the event any refund check or checks are received by Debtors prior to the full satisfaction of the tax liability, such check or checks shall be endorsed according to law and mailed to: Internal Revenue Service, Attention: Chief, Insolvency Section, Internal Revenue Service, Room 711B Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

8. To the extent that there are nondischargeable tax debts in this case, the Debtors shall remain liable following the end of the bankruptcy case for any unpaid postpetition interest and penalties under Bruning v. United States, 376 U.S. 358 (1964).

9. No federal tax liability accruing prior to the confirmation of the plan, including interest and penalty, is discharged until Debtors complete payment in accordance with this stipulation. Any federal tax liabilities for prepetition periods, which are determined by audits completed postpetition are not discharged on confirmation, but will be due and payable as if this bankruptcy had not occurred.

10. The period allowed the IRS under 26 U.S.C. § 6502(a) to collect the assessed taxes, penalties, interest and other additions and accruals thereon, which are still owed by Debtors after the plan effective date for the periods specified in the allowed claims of the IRS, shall be suspended for the period of time that the debt to the IRS is to be paid under the plan (as revised by this stipulation), unless and until a substantial default of these plan payments shall occur, and for six months thereafter, in accordance with 26 U.S.C. § 6503(h)(2). A substantial default of plan payments shall have occurred under this stipulation when a payment to the IRS required by the plan as it incorporates this stipulation, has not been made, the IRS has provided Debtors with a written notice of default, and Debtors fail to cure the default within 30 days of the date on the written notice.

11. In the event that the Debtors fail to make any of the payments required under this stipulation **or** fail to comply with any of their postconfirmation federal tax obligations, the Internal Revenue Service may pursue collection of all unpaid preconfirmation and postconfirmation liabilities through any means authorized by the Internal Revenue Code or other applicable law, including levy and seizure of the debtor's assets. Notwithstanding the foregoing, the Debtors shall have thirty (30) days to cure all delinquent plan payments and postconfirmation tax liabilities. This thirty day period shall commence upon the issuance of a written notice of plan default by the Internal Revenue Service to the Debtors. Further, the IRS is not bound by any default provisions of the plan.

12. Should Debtors file another bankruptcy petition before completing the terms of this stipulation, this stipulation is null and void and the claims of the IRS retain their status as tax claims; they are not reduced to claims under this agreement. Notwithstanding the foregoing, the

claims of the IRS will have no lower priority in any subsequent bankruptcy than they have in this case.

13. This stipulation and agreement shall be deemed incorporated in the plan of reorganization and supersedes it where inconsistent with it.

Respectfully submitted,

CINDY K. CHUNG
UNITED STATES ATTORNEY

BY: /s/ Jill Locnikar
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/s/ Donald R. Calaiaro

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Counsel for Debtor

DATED: November 18, 2022

IT IS SO ORDERED



Gregory A. Taddonio, ^{hc} Chief Judge
UNITED STATES BANKRUPTCY COURT

In re:
David A. Golupski
Maureen Y. Golupski
Debtors

Case No. 22-20324-GLT
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0315-2
Date Rcvd: Nov 18, 2022

User: auto
Form ID: pdf900

Page 1 of 2
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 20, 2022:

Recip ID	Recipient Name and Address
db/jdb	+ David A. Golupski, Maureen Y. Golupski, 5101 Carnoustie Drive, Presto, PA 15142-1507

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 20, 2022

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 18, 2022 at the address(es) listed below:

Name	Email Address
Beverly Weiss Manne	on behalf of Creditor Advance Business Capital LLC dba Triumph Business Capital bmanne@tuckerlaw.com, bewmanne@aol.com,jrusnack@tuckerlaw.com
Brian Nicholas	on behalf of Creditor PNC Bank National Association bnicholas@kmlawgroup.com
Courtney Helbling	on behalf of Creditor Advance Business Capital LLC dba Triumph Business Capital chelbling@tuckerlaw.com
Donald R. Calaiaro	on behalf of Joint Debtor Maureen Y. Golupski dcalaiaro@c-vlaw.com kmosur@c-vlaw.com:ssimmons@c-vlaw.com;jadam@c-vlaw.com;apratt@c-vlaw.com;mpeduto@c-vlaw.com;mlocke@c-vlaw.com;eballa@c-vlaw.com
Donald R. Calaiaro	

District/off: 0315-2

User: auto

Page 2 of 2

Date Rcvd: Nov 18, 2022

Form ID: pdf900

Total Noticed: 1

on behalf of Plaintiff David A. Golupski dcalaiaro@c-vlaw.com
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Jeffrey Hunt

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Jeffrey R. Hunt

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Jodi Hause

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John J. Winter

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John J. Winter

on behalf of Defendant Newtek Small Business Finance LLC jwinter@chartwellllaw.com

Keri P. Ebeck

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Ryan J Cooney

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TOTAL: 22